

## STAFF REPORT

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02/28/20  
Lease 5645.1  
A2275  
J. Holt

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### TERMINATION AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

#### LESSEE:

Janice A. Ramos, as Trustee of the Janice A. Ramos Revocable Living Trust,  
Dated May 28, 2009, and Janice A. Ramos

#### APPLICANT:

Charmaine Ramos

#### PROPOSED LEASE:

##### *AREA, LAND TYPE, AND LOCATION:*

Sovereign land located in the Sacramento River, adjacent to 3017 Garden Highway, near Sacramento, Sacramento County.

##### *AUTHORIZED USE:*

Use and maintenance of an existing boat dock with railing, gangway, two pilings, and bank protection.

##### *LEASE TERM:*

10 years, beginning February 20, 2019.

##### *CONSIDERATION:*

**Boat dock with railing, gangway, and two pilings:** \$140 per year, with an annual Consumer Price Index adjustment.

**Bank protection:** The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

##### *SPECIFIC LEASE PROVISIONS:*

- Liability insurance in an amount no less than \$1,000,000 per occurrence.

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- Lessee agrees and acknowledges that the hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the lease premises.

### **STAFF ANALYSIS AND RECOMMENDATION:**

#### **Authority:**

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

#### **Public Trust and State's Best Interests Analysis:**

On February 20, 2015, the Commission authorized a 10-year General Lease - Recreational and Protective Structure Use to Janice A. Ramos, as Trustee of the Janice A. Ramos Revocable Living Trust, Dated May 28, 2009, and Janice A. Ramos ([Item C41, February 20, 2015](#)). That lease will expire on February 19, 2025. On October 31, 2017, the upland was deeded to Charmaine Ramos. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for the use and maintenance of an existing boat dock with railing, gangway, two pilings, and bank protection in the Sacramento River.

Staff recommends termination of the existing lease, Lease No. PRC 5645.1, based on the transfer of upland title and abandonment of the lease area. The title transfer occurred without a lease quitclaim deed and notification to Commission staff. The rent was paid through February 19, 2019.

The proposed lease area contains the same facilities as the current lease. These facilities are designed for recreational boating and shoreline protection. The boat dock and appurtenant facilities have existed at this location for many years. Recreational boating is a water-dependent activity and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5). The bank protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resources of the Sacramento River, for recreational and navigational use by the public.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon

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termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

### **Climate Change:**

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion affect both open coastal areas and inland waterways in California. The subject facilities are located on the Sacramento River in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

**Table 1. Projected Sea-Level Rise for San Francisco<sup>1</sup>**

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: <sup>1</sup> Projections are with respect to a 1991 to 2009 baseline.

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events and could increase the Sacramento River's inundation levels within the lease area over the term of the lease. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to

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flooding, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage and affect access to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause facilities to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and potentially leading to increased wear-and-tear on the pilings and dock. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The floating dock and gangway are adaptable to variable water levels, allowing them to rise and fall with storms and droughts, and increasing their resiliency to some climate change impacts, but may require more frequent maintenance to ensure continued functionality during and after storm seasons and to avoid dislodgement. The fixed pilings may need reinforcement to withstand higher levels of flood exposure. Pursuant to the proposed lease, the applicant acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to effects of climate change, including sea-level rise.

### **Conclusion:**

For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

### **OTHER PERTINENT INFORMATION:**

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and

## STAFF REPORT NO. 31 (CONT'D)

responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the boat dock with railing, gangway, two pilings, and bank protection, and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.

2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
3. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

### **EXHIBITS:**

- A. Land Description
- B. Site and Location Map

### **RECOMMENDED ACTION:**

It is recommended that the Commission:

### **CEQA FINDING:**

Find that issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the termination of the lease and issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

**AUTHORIZATION:**

1. Authorize termination of Lease No. PRC 5645.1, a General Lease – Recreational and Protective Structure Use issued to Janice A. Ramos, as Trustee of the Janice A. Ramos Revocable Living Trust, dated May 28, 2009, and Janice A. Ramos, effective February 19, 2019.
2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning February 20, 2019, for a term of 10 years, for the use and maintenance of an existing boat dock with railing, gangway, two pilings, and bank protection, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the boat dock with railing, gangway, and two pilings: \$140 per year, with an annual Consumer Price Index adjustment; consideration for the bank protection: the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

## **EXHIBIT A**

**LEASE 5645.1**

### **LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflowed Land Survey 284, certificate of purchase dated March 12, 1860, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing boat dock with railing, gangway and two pilings lying adjacent to that parcel described in Exhibit "A" of that Deed of Trust, recorded October 31, 2017 in Document No. 201710311186 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

ALSO TOGETHER WITH that land lying immediately beneath any Bank Protection Structure adjacent to that parcel described in said Deed of Trust.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of said river.

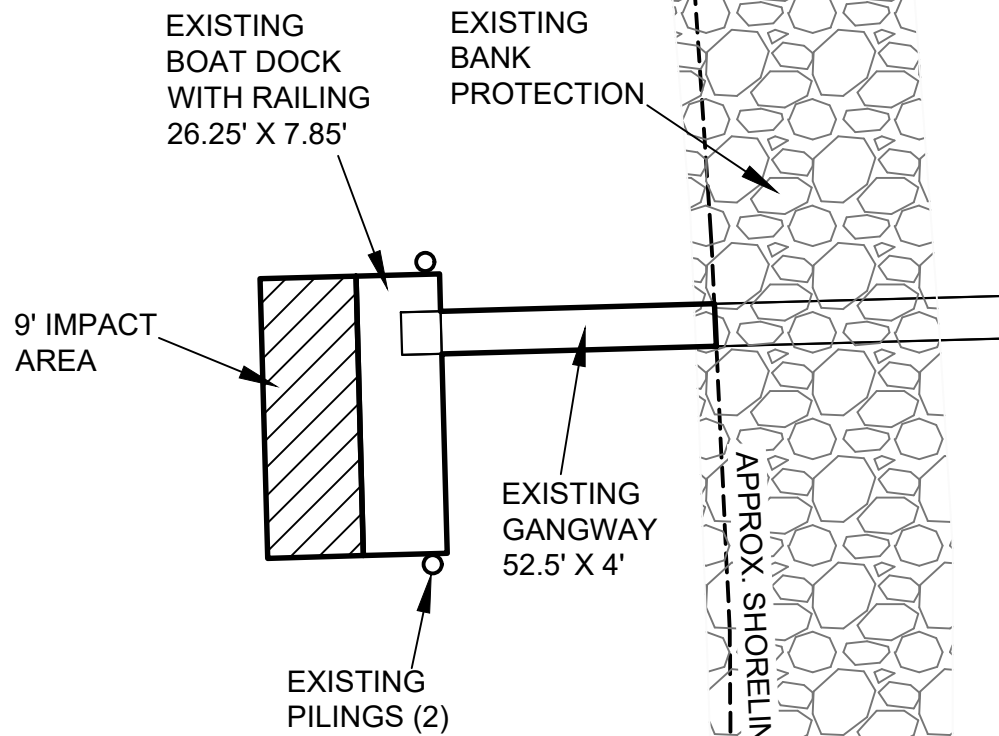
Accompanying plat is hereby made part of this description.

### **END OF DESCRIPTION**

Prepared 10/08/2019 by the California State Lands Commission Boundary Unit



SACRAMENTO RIVER



APN 225-0200-002

## EXHIBIT A

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LAND DESCRIPTION PLAT  
LEASE 5645.1, RAMOS  
SACRAMENTO COUNTY

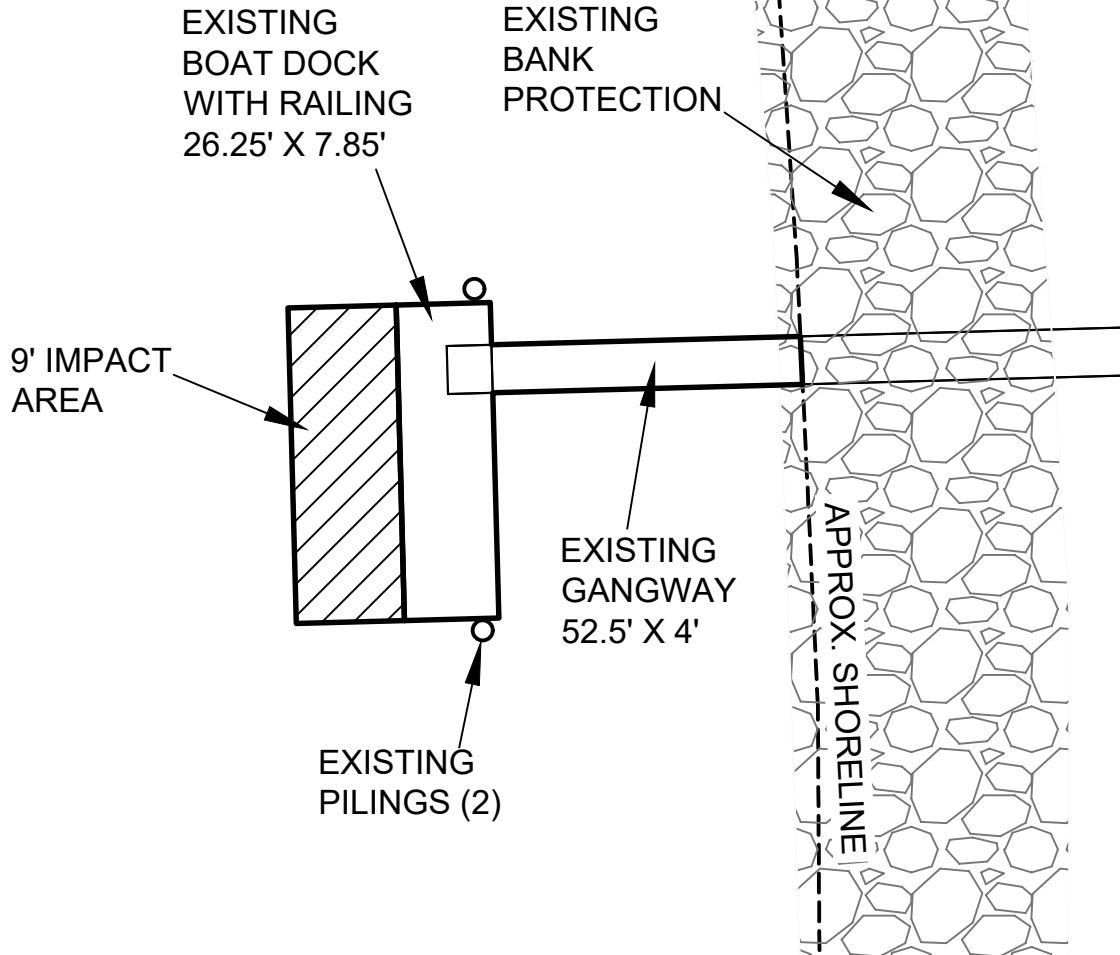
CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

## SITE

SACRAMENTO RIVER

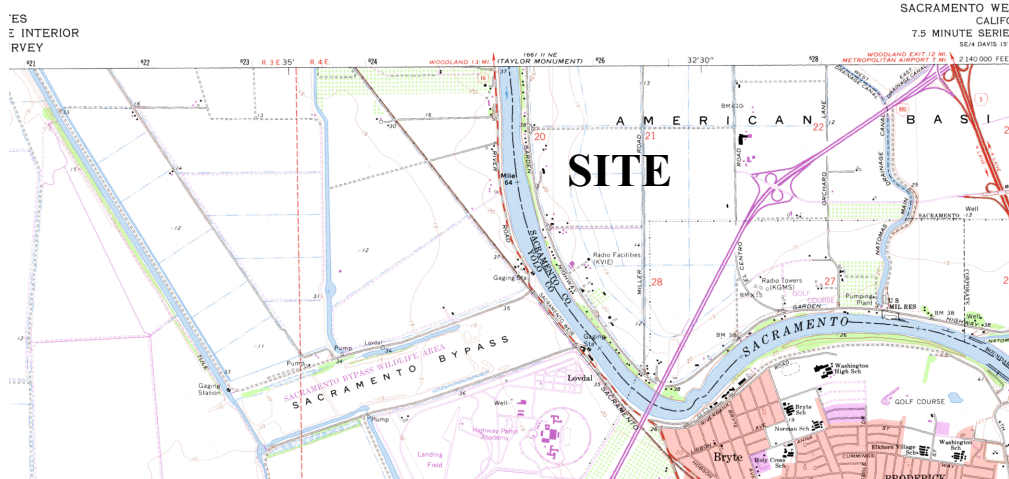


APN 225-0200-002

3017 GARDEN HIGHWAY, SACRAMENTO

NO SCALE

## LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

## **Exhibit B**

LEASE 5645.1  
RAMOS  
APN 225-0200-002  
GENERAL LEASE -  
RECREATIONAL AND  
PROTECTIVE STRUCTURE USE  
SACRAMENTO COUNTY



TS 10/08/19